

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN DEBBY BARRETT**, on January 30, 2003 at 8 A.M., in Room 455 Capitol.

ROLL CALL

Members Present:

Rep. Debby Barrett, Chairman (R)
Rep. Dee Brown, Vice Chairman (R)
Rep. Larry Jent, Vice Chairman (D)
Rep. Norman Ballantyne (D)
Rep. Arlene Becker (D)
Rep. Sue Dickenson (D)
Rep. Carol Gibson (D)
Rep. Daniel S. Hurwitz (R)
Rep. Hal Jacobson (D)
Rep. Larry Lehman (R)
Rep. Ralph Lenhart (D)
Rep. Alan Olson (R)
Rep. Bernie Olson (R)
Rep. Don Roberts (R)
Rep. Clarice Schrumpf (R)
Rep. Frank Smith (D)
Rep. Pat Wagman (R)
Rep. Jonathan Windy Boy (D)
Rep. Cindy Younkin (R)

Members Excused: None.

Members Absent: None.

Staff Present: Sheri Heffelfinger, Legislative Branch
Joan Reiman, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HR 3, 1/27/2003; HB 269, 1/21/2003;
HB 353, 1/21/2003; HB 415, 1/27/2003;
Executive Action: HB 415 TABLED

HEARING ON HB 415

Sponsor: REP. PAUL CLARK, HD 72, Trout Creek

Opening Statement by Sponsor:

REP. CLARK said this bill was to limit liability of medical responders, but it didn't do what he had wanted, and needs to be tabled.

Proponents' Testimony: None

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor: REP. CLARK said he wanted to table the bill.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 3.4}

HEARING ON HB 353

Sponsor: REP. JEFF LASZLOFFY, HD 22, Laurel

Opening Statement by Sponsor:

REP. LASZLOFFY said this bill is to name Laurel as the site of the State Firefighters' Memorial.

Proponents' Testimony:

J. Williamson, Firefighter, said this will honor both male and female as well as volunteer and professional firefighters. Laurel is the center of the state. This is backed by Montana Volunteer Firefighters.

John Semple, Montana Firefighters Alliance, testified in support.

Charles Brooks, Yellowstone County Commissioner, said this is an idea whose time has come.

REP. PAT WAGMAN, HD 26, said this is similar to the Cowboy Hall of Fame idea.

Pat Clinch, President, Montana State Council of Professional Firefighters (MSCPFF), said they are also are discussing a line-of-duty death memorial.

Opponents' Testimony: None

Informational Testimony:

John Blacker, MDT Maintenance Administrator, was present to answer questions.

Questions from Committee Members and Responses:

REP. LEHMAN asked **REP. LASZLOFFY** where the site would be. It will be in the triangle park east of the Public Safety complex. **REP. BROWN** asked **Mr. Clinch** to contact the group who plans memorials for the Capitol Area. **REP. ROBERTS** asked about funding. **REP. LASZLOFFY** replied that funding is all private. **CHAIRMAN BARRETT** asked John Blacker if the memorial will be on maps and signs. **Mr. Blacker** replied that he did a fiscal note but money is not an issue. Signs cost \$2,000 and they probably will need two for the interstate exits. It will be on the next map in 2004-5. **CHAIRMAN BARRETT** asked if there were an EIS required; the answer was no.

Closing by Sponsor:

REP. LASZLOFFY told Mr. Clinch to work with him about the Capitol memorial planned. The sponsor entered a letter from the Montana Volunteer Firefighters as an exhibit, and closed on HB 353.

EXHIBIT(sth20a01)

{Tape: 1; Side: A; Approx. Time Counter: 3.4 - 18.7}

HEARING ON HB 269

Sponsor: **REP. BOB BERGREN, HD 90, Havre**

Opening by Sponsor:

REP. BERGREN testified this is a bill to change and clean up the Fire Code. It redefines occupancy. Most importantly in his amendment, it repeals duplicative reporting systems and would allow local fire departments to report directly to the national fire information center. He gave an amendment.

EXHIBIT (sth20a02)**{Tape: 1; Side: A; Approx. Time Counter: 20.6 - 24.9}****Proponents' Testimony:**

Mike Batista, Criminal Investigation Division Administrator, said the State Fire Marshall reports to him. This bill speaks to real life situations. Budget cuts reduced his staff of 12 to 9 FTEs. They will no longer be the central data repository. The bill may damage the indemnity bond of those who sell fireworks. He is asking for flexibility to do the work within given resources. Their priority is inspections of schools, day cares, & public assembly places. He supports the amendment, which places responsibility for state-owned buildings onto Department of Administration.

Pat Clinch, President, MSCPFF, said the amendments are good.

Steve Larson, City of Helena Fire Chief, testified in support.

Mona Jamison, Attorney and Lobbyist for American Promotional Enterprises, said last Session, fireworks importers worked with the Fire Marshall. She said she objected to the part of the amendment giving authority to regulate transporting fireworks, but supports the bill otherwise.

Mike Maeder, President, Big Sky Pyrotechnics Association, said he has concerns about how statistics are calculated on causes of fires. He said he will talk to Mr. Batista about a possible amendment. He provided a copy of his testimony.

EXHIBIT (sth20a03)

Doug Neil, Montana State Firemen's Association, said he supports HB 269 as amended.

{Tape: 1; Side: A; Approx. Time Counter: 24.9 - 36.4}**Opponents' Testimony:** None**Informational Testimony:** None**Questions from Committee Members and Responses:**

REP. BROWN asked Mr. Batista to explain Page 1, Line 1; and asked what duties the budget covered that are not redundant with federal law. He replied that they conduct fire investigations, life-safety inspections of developmentally disabled (DD) homes

and daycares, and these are not done by any federal agency. The federal entities only do incident reporting. **REP. BROWN** asked **Mr. Batista** in regard to Page 8, if investigations are contingent on budget. She voiced a huge concern that schools be top priority. He replied schools are number one, based on the possibility of greatest loss of life.

REP. WAGMAN asked if Montana had a uniform, nationally-recognized fire code. **Mr. Batista** replied they are in the process, through the AG's office. **REP. WAGMAN** asked him what business are inspected, and how often. **Mr. Batista** deferred to **Fire Marshall Phillips**, who replied that by statute, they inspect schools, DD homes, and day cares every 12 months. Annual inspections are ideal; then they inspect bed/breakfasts and motel detection systems. **WAGMAN** him if they meet national standards. The answer was that Montana does not have the FTEs [positions] to do so.

REP. GIBSON asked if they were sacrificing safety because of lack of budget. He replied that he would like to think not. But seven deputies cover over 700 schools and they can't get to all of them annually. They do over 1,000 inspections and some 80 fire investigations per year; they do public education in schools with local fire departments. They prioritize high risk occupations for prevention efforts. Fire prevention is not measurable, but there have been no school fire deaths since 1965. **REP. GIBSON** asked if they could do a better job promoting fire safety if their budget had not been cut. **Mr. Batista** said, "Yes."

REP. JACOBSON asked **Mr. Batista** about the promulgation of rules specified on Page 3, Line 12-15. **Mr. Batista** replied that The Uniform Fire Code, 1997 edition will be the standard. **Mr. Batista** deferred to **Mr. Phillips**, who agreed. It covers building codes, electrical and plumbing inspectors. **REP. BALLANTYNE** asked the sponsor why the definitions are broad. The sponsor replied that it is better to take details out of MCA, and just reference the Uniform Fire Code, which is always being updated. **REP. LEHMAN** asked **Mr. Phillips** how many FTEs he had prior to budget cuts and he said it had been 12 but was now nine.

REP. LEHMAN asked if state buildings and universities had priority. "No, public schools are first," said Phillips. **REP. LEHMAN** asked if cooperation took place between them and city fire fighters. **Mr. Phillips** said if the city has adopted the Code, it still leaves 700 schools for them to inspect.

REP. LENHART asked **Mr. Phillips** if cases or arson were increasing. **Mr. Phillips** answered that arson is not increasing,

but they get more requests for investigations. **REP. LENHART** asked how the budget cuts affected him. He said he lost three deputies and closed three field offices. He added that investigations take a great deal of time. **REP. BROWN** asked **Mr. Phillips** where the sites were and which sites were closed. "Sidney, Sheridan and Havre were closed," he testified, "leaving offices at Miles City, Billings, Great Falls, Helena, Missoula, Kalispell and a K-9 unit inspection station in Helena." The Chief Deputy covers the whole state and supervises the field deputies.

REP. BROWN asked if the deputies are paid for mileage, and he said they were. **REP. WINDY BOY** asked if they inspected clandestine labs and Phillips replied that the Narcotics Bureau does that. **REP. WAGMAN** asked if they do inspections for supper clubs. "If no fire code has been adopted by the local volunteer firefighters, then the state Fire Marshall will cover those situations," Phillips replied.

{Tape: 1; Side: A; Approx. Time Counter: 37.1 - 62}

{Tape: 1; Side: B; Approx. Time Counter: 0 - 2.3}

Closing by Sponsor:

The sponsor thanked them for the "great questions." He addressed Mr. Maeder's concerns saying he supports small business and hopes their dialog will continue. He stated that this office is important to the state in light of terrorism. He will work with committee on amendments which he asked them to consider.

{Tape: 1; Side: B; Approx. Time Counter: 2.3 - 5.3}

HEARING ON HR 3

CHAIRMAN DEBBY BARRETT turned the meeting over to **VICE CHAIRMAN DEE BROWN** for this hearing.

Sponsor: **REP. DEBBY BARRETT, HD 34, Dillon**

Opening Statement by Sponsor:

REP. BARRETT, presented this bill as Vice-Chair of the Joint Select Committee on Districting and Apportionment. She said that Plan 300 had not affected her district but that three Districting and Apportionment Commissioners followed a unique process. One had stated that redistricting is an art. She disagreed. Only four other states appoint a committee to redistrict, she testified; the legislature does this in the other forty-six states.

Proponents' Testimony:

REP. LEHMAN, HD 87, stated his support. "Districting needs to be reassessed and inequity remains," he testified. His district would be too spread out.

REP. BERNIE OLSON, HD 76, stated that if the population deviation is greater, that means more people for the number of representatives. In that case, they are grossly under-represented, he charged.

REP. HURWITZ, HD 40, expressed problems with his district if Plan 300 were adopted.

ALAN OLSON, HD 8, addressed the term "community of interest." His was torn completely apart by the plan. The 5% criterion was for extenuating circumstances, he charged; the process was a sham, he added.

EP. PAT WAGMAN, HD 26, also testified in favor.

{Tape: 1; Side: B; Approx. Time Counter: 5.3 - 20.1}

Opponents' Testimony:

REP. JOEY JAYNE, HD 73, Arlee, stated she is also on the Joint Select Committee on Districting and Apportionment. She said she did not like what Plan 300 did to her district; it got spread out. But, she said, HR 3 is taking away the authority of the D&A when the chair was nominated unanimously by the Supreme Court and the commission members were nominated by each of the two main parties. The effect of HR 3 would be to tell D&A to go back and do it over. She provided a Minority Report on SR 2 and HR 3.

EXHIBIT (sth20a04)

REP. CAROL JUNEAU, HD 85, Browning, testified that plan 300 creates six house districts and six senate districts. Indians are the fastest growing demographic group in Montana, increasing by 39% in ten years. Tribes share a common interest, she said. The 1% rule which HR 3 would enact would change two Indian majority house districts and the Crow Senate District, she expressed. Plan 300 created 94 nonIndian majority districts, and Indians have been disenfranchised too long, she stated. **REP. JUNEAU** provided Exhibit 5.

EXHIBIT (sth20a05)

REP. DAVE GALLIK, HD 52, Helena, charged they are wasting too much time and creating party schism. He asked what the people of Montana would get out of this, and answered that the result would be a frivolous lawsuit. He asked them to make specific recommendations to Secretary of State Brown rather than scrapping the whole plan. He said it is time to work on the budget.

Bob Ream, Montana Democratic Party Chair, reminded the committee there was no such thing as a Republican seat or a Democratic seat; the districts belong to the people. He said there were racial overtones inherent in this house resolution, and provided written testimony.

EXHIBIT (sth20a06)

REP. FRANK SMITH, HD 98, stated that Republican D&A Commissioner Jack Rehburg proposed the 5% criteria which the committee is using now.

{Tape: 1; Side: B; Approx. Time Counter: 20.1 - 50.6}

Informational Witnesses: None

Questions from Committee Members and Responses:

REP. WINDY BOY asked **REP. BARRETT** what criteria were used in the study. She replied the 1992 commission did not adopt preservation of existing districts as a criterion. **REP. BARRETT** said the 1980 commission used five criteria. **REP. WINDY BOY** asked **Mr. Lamson** what criteria they used. **Mr. Lamson** replied they used four: the idea of compact and contiguous areas; the 5% population deviance; the federal Voting Rights Act; and the Reno V. Shaw ruling that race cannot be used as the predominate criterion to form districts. **Mr. Lamson** said they did not use established legislative districts because the state population increased by 12.9%. **REP. WINDY BOY** asked how many states use a citizen membership body for districting. **REP. BARRETT** said Montana is one of five.

REP. BERNIE OLSON asked about the Minority Report, Page 5. He wondered if they left the Indian districts but used a 1% criterion on the rest of the state, if they could do a better job. **Mr. Lamson** said they could not. In the Old Person decision, the courts were clear they must strive for representation and treat all the same, he said. The Commission only had objections from two mid-sized towns, he stated. Lewistown was one, and it was because it was like a doughnut.

REP. BERNIE OLSON said his concerns are with Flathead and Silver Bow Counties. **Mr. Lamson** said it was presumed the D&A were constitutional going with the 5% limit, and those counties have unique communities of interest. **REP. ALAN OLSON** asked who put together Plan 300. **Mr. Lamson** said he and **REP. RICE** did. **REP. OLSON** asked who bought software for Plan 300. **Mr. Lamson** replied, "The Democratic Party." **REP. YOUNKIN** stated it was former **REP. SHEILA RICE**.

REP. WAGMAN asked **REP. BERNIE OLSON** who testified as a proponent, what happened in Flathead County. **REP. OLSON** said his concern was with the One Man-One Vote Sanders Case of 1964. Redistricting should be done so that every vote counts the same. The technology in 1964 could not achieve a count within 1%, so they used the 5% criterion, he said. A more recent decision says redistricting cannot be done solely for the purpose of race. **REP. SMITH** asked **Mr. Lamson** if the computer program was designed for the Democrats. He said it was the same as a program owned by Legislative Services, and the Republicans could have purchased one.

{Tape: 1; Side: B; Approx. Time Counter: 50.6 - 62}

{Tape: 2; Side: A; Approx. Time Counter: 0 - 10.3}

Closing by Sponsor:

REP. BARRETT addressed concerns stated in testimony. She replied to **REP. JAYNE's** statement by saying HR 3 would only be a recommendation. Redistricting criteria were omitted on a 3-2 partisan vote, not the way it was done in the past, and it should be unanimous, she stated. Voters don't want a Republican Plan and a Democratic Plan. This is unacceptable and must be rejected, she said.

{Tape: 2; Side: A; Approx. Time Counter: 10.3 - 15}

EXECUTIVE ACTION ON HB 415

Motion: **REP. JENT** moved HB 415 DO PASS.

Substitute Motion: **REP. BROWN** made a **SUBSTITUTE MOTION HB 415 BE TABLED**.

Vote: On a voice vote, motion carried 19-0.

{Tape: 2; Side: A; Approx. Time Counter: 15 - 16}

ADJOURNMENT

Adjournment: 10:35 A.M.

REP. DEBBY BARRETT, Chairman

JOAN REIMAN, Secretary

DB/JR

EXHIBIT (sth20aad)